

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: FOSAMAX®
(ALENDRONATE SODIUM):
PRODUCTS LIABILITY
LITIGATION

MDL No. 2243
Civil Action No. 08-08-KMW-MJS

~~[PROPOSED]~~ CASE MANAGEMENT
ORDER No. 16

IT IS on this 11th day of ~~March~~ ^{APRIL}, 2025, **ORDERED** as follows:

1. PLAINTIFFS' STATUS

- a. Every Plaintiff (or their appropriate representative or anticipated representative) shall complete the required applicable Certification attached as Exhibit A stating that the Plaintiff (or their appropriate representative or anticipated representative) is willing and able to proceed with this litigation. Plaintiffs' counsel shall return all completed Certifications to NJfosamaxdiscovery@venable.com and MDLFosamaxLiaison@seegerweiss.com within 60 days from the date of this Order.
- b. Plaintiffs' counsel shall provide a list to Defendants' counsel via email within 60 days from the date of this Order identifying: (1) any Plaintiffs that they have been unable to contact and communicate with; and (2) any Plaintiffs who they have identified as deceased and for whom a current or prospective personal representative has not been identified.

2. DECEASED PLAINTIFFS

- a. Defendants shall not file and serve a statement in accordance with Federal Rule of Civil Procedure 25(a)(1) and Rule 25(a)(3) noting the death of any Plaintiff identified as deceased in the list provided to Defendants' counsel pursuant to Paragraph 1.c. prior to the time the United States Supreme Court addresses the Petition for a Writ of Certiorari in *Merck Sharp & Dohme Corp v. Albrecht*.

Defendants may file and serve such statements only if, and not until thirty (30) days after, the United States Supreme Court denies the Petition for Writ of Certiorari.

- b. Plaintiffs' counsel is not required to file and serve a statement in accordance with Federal Rule of Civil Procedure 25(a)(1) and Rule 25(a)(3) noting the death of any Plaintiff unless and until the United States Supreme Court denies the Petition for Writ of Certiorari, and no such statement will be due until thirty (30) days after the Supreme Court denies the Petition.
- c. Any Motion for Substitution of a deceased Plaintiff filed in accordance with the Federal Rules shall identify the proposed substitute Plaintiff by name and shall describe why the proposed substitute Plaintiff is a "proper" party and why the claim has not been extinguished under applicable state law.
- d. If applicable state law requires the opening of an estate and the appointment of a personal representative to pursue the claims of a deceased Plaintiff, Plaintiff's counsel shall initiate, or cause to be initiated, proceedings to open an estate and/or obtain the appointment of a personal representative for the deceased Plaintiff within 30 days of the filing of the statement noting the Plaintiff's death.
- e. Plaintiffs' counsel shall attach as an exhibit to the Motion for Substitution a copy of any court order or filing appointing the person sought to be substituted as the personal representative of the deceased Plaintiff.
- f. In the event that no personal representative has been appointed by the deadline for the filing of a Motion for Substitution, Plaintiffs' counsel shall describe in the Motion for Substitution the steps taken to obtain the appointment of a personal representative and state whether there are any competing applications. If the Court determines that the person sought to be substituted would be a proper party if appointed as a personal representative of the deceased Plaintiff and that the provisions of this Order and Federal Rule of Civil Procedure 25(a) have otherwise been complied with, the Court will provisionally grant the Motion for Substitution on the condition that the substituted Plaintiff must submit to the Court a copy of the

Order appointing him or her as the deceased Plaintiff's personal representative within 10 days of its issuance.

- g. Nothing in this Order shall preclude Defendants from challenging the authority or capacity of the proposed substitute Plaintiff.
- h. A Plaintiff's failure to comply with this Order, including the provisions of Paragraph 2 and all subparagraphs, will entitle Defendants to request a dismissal of Plaintiff's action with prejudice in accordance with Federal Rule of Civil Procedure 25(a)(1).

The Honorable Karen M. Williams
United States District Judge

SO ORDERED this 11th day
of APRIL 2025


Matthew J. Skahill, USMJ

**CERTIFICATIONS TO
CASE MANAGEMENT ORDER**

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PLAINTIFF CERTIFICATION

I, _____ (print name), understand the below and certify that the below
statements made by me are true.

1. I filed a lawsuit against Merck and I am a plaintiff in the Fosamax litigation in the United
States District Court for the District of New Jersey.

2. My current address is: _____

(PRINT OR TYPE)

3. I certify that I am willing and able to participate in this litigation.

Plaintiff (print name)

Plaintiff Signature

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PLAINTIFF REPRESENTATIVE
CERTIFICATION

I, _____ (print name), understand the below and certify that the below
statements made by me are true.

1. I am currently acting as the personal representative of _____, who filed a
lawsuit against Merck and I am acting as the plaintiff on their behalf in the Fosamax
litigation in the United States District Court for the District of New Jersey.

3. My current address is: _____

(PRINT OR TYPE)

2. I certify that I am willing and able to participate in this litigation.

Plaintiff (print name)

Plaintiff Signature

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**PROPOSED PLAINTIFF
REPRESENTATIVE CERTIFICATION**

I, _____ (print name), understand the below and certify that the below
statements made by me are true.

1. A. I am the authorized personal representative of _____, who is
deceased and who filed a lawsuit against Merck;

OR

B. I have or will be seeking the authority to act as _____ authorized personal
representative because I am their next of kin or legally designated personal representative.

2. I intend to proceed as plaintiff on behalf of the above named person and act as the plaintiff on
their behalf in the Fosamax litigation in the United States District Court for the District of
New Jersey.
3. I will take the necessary steps to substitute my appearance for _____ as the
estate's representative.
4. I understand that if I do not promptly take the necessary steps to formalize this appointment,
the case may be dismissed.
4. My current address is: _____

(PRINT OR TYPE)

5. I certify that I am willing and able to participate in this litigation.

Proposed Representative (print name)

Proposed Representative Signature